

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

STEPHEN LOPORCHIO,

Plaintiff,

v.

Case No. 22-CV-334-JFH

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,**

Defendant.

OPINION AND ORDER

Before the Court is the Report and Recommendation of Magistrate Judge Gerald Jackson [Dkt. No. 53] on Plaintiff's Motion for Partial Summary Judgment [Dkt. No. 43] and Defendant State Farm Mutual Automobile Insurance Company's Motion for Summary Judgment on Plaintiff's Claims and Brief in Support [Dkt. No. 45]. Magistrate Judge Jackson recommended that this Court deny both motions because genuine issues of material fact preclude entry of summary judgment in favor of either party. Dkt. No. 53 at 2. Defendant State Farm timely objected to Judge Jackson's recommendation that their motion [Dkt. No. 45] be denied. Dkt. No. 55. No party objected to Judge Jackson's recommendation that Plaintiff's Partial Motion for Summary Judgment [Dkt. No. 43] be denied.

I. Standard of Review

District courts may refer a pretrial dispositive claim or defense to a Magistrate Judge for a recommended disposition. Fed. R. Civ. P. 72 (b) (1). The district court must conduct a de novo review of the magistrate judge's report and recommendation if a party objects to the magistrate's findings. 28 U.S.C. § 636(b)(1); *Northington v. Marin*, 102 F.3d 1564, 1570 (10th Cir.1996) ("De novo review is required after a party makes timely written objections to a magistrate's report. The

district court must consider the actual testimony or other evidence in the record and not merely review the magistrate's report and recommendations."). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). De novo review requires the district court to consider relevant evidence of record and not merely review the magistrate judge's recommendation. *Id.*

II. Defendant's Objection

The present case concerns a dispute regarding an insurance policy Plaintiff purchased from State Farm for his 2006 Ford F550 truck. After Plaintiff's truck was stolen sometime late August 9, 2022, or early on August 10, 2022, State Farm denied Plaintiff's claim stating that the insurance policy was not in force on the date of loss. Dkt. No. 45 at 6. Defendant argues that Magistrate Judge Jackson incorrectly concluded that there are genuine issues of material fact regarding whether Plaintiff's policy was subject to cancellation for nonpayment and therefore not in force. Dkt. No. 55 at 4. Defendant argues that Plaintiff was one month behind on his payments, therefore the July 6 payment made by Plaintiff applied to the amount owed June 12, 2022, not July 12, 2022. Dkt. No. 59 at 3. Plaintiff argues that he was not behind on his payments and that he made a payment on July 6, 2022. Dkt. No. 56 at 2. Thus, he argues that State Farm improperly cancelled his coverage. *Id.* Defendant's explanation is not supported by the cited payment schedule and, even if it was, Plaintiff disputes the accuracy of the payment schedule. Dkt. No. 45-6. Indeed, the Magistrate Judge also pointed out the same issue. Dkt. No. 55 at 2. Thus, there remains a disputed material fact regarding whether State Farm improperly cancelled Plaintiff's coverage. Dkt. No. 56 at 2. Therefore, after a careful review of the summary judgment record, including Defendant's objection, the Court agrees with the analysis set forth by Magistrate Judge Jackson in his Report and Recommendation.

After a de novo review, the Court determines that the Report and Recommendation [Dkt. No.53] is well supported by the record and the prevailing legal authority. The objection [Dkt. No. 55] is **OVERRULED** and the Report and Recommendation [Dkt. No.53] is hereby affirmed and adopted as this Court's Findings and Order. Plaintiff's Motion for Summary Judgment [Dkt. No. 43] and State Farm Mutual Automobile Insurance Company's Motion for Summary Judgment on Plaintiff's Claims and Brief in Support [Dkt. No. 45] are both hereby **DENIED**.

Dated this 23rd day of October 2024.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE